

Support SB 948, SCR 16, SCR 17, SR 150, + SR 151

-1-

WRITTEN SUBMISSION

BLUEWATER COALITION AGAINST THE DGRs

In the Matter of Ontario Power Generation Inc.

Proposed Environmental Impact Statement For OPG's Deep Geological

Repository (DGR) Project for Low and Intermediate Level Waste (L&ILW)

Kincardine, Ontario

To the Joint Review Panel

September / October 2013

Presented by:

**Cheryl Grace
225 Emerald Drive
Southampton, ON N0H 2L0**

INTRODUCTION

I am a permanent resident of Saugeen Shores, Ontario. I am a director of Save Our Saugeen Shores and the Southampton Residents Association. This submission is made on behalf of the Bluewater Coalition Against the DGRs; I have been a member of this group since its foundation ten months ago.

In October, 2012 a group of citizens from Bruce, Grey and Huron Counties met to discuss their shared concerns about proposals to site Deep Geological Repositories for stored radioactive waste in the above counties and the Great Lakes Basin as a whole. This early discussion led within a month to the formation of the Bluewater Coalition Against the DGRs, an organization consisting of individuals, some of whom also belong to the following organizations: Save Our Saugeen Shores (SOS), the Inverhuron Committee and the Huron-Grey Bruce Citizens Committee on Nuclear Waste. Meeting monthly, the purpose of the group is to share resources and information about activities related to the DGR projects in their respective municipalities among themselves and with the public in general. Not all members of the above-mentioned organizations are members of the Bluewater Coalition Against the DGRs, and the Bluewater Coalition has no authority over the activities of SOS, the Inverhuron Committee or the Huron-Grey-

Bruce Citizens Committee on Nuclear Waste. In December, 2012, the Bluewater Coalition Against the DGRs held a press conference announcing its formation and that same day filed FOI requests for information related to the two DGR proposals in the municipalities of Arran-Elderslie, Brockton, Central Huron, Huron-Kinloss, Kincardine, Saugeen Shores and South Bruce. The Bluewater Coalition Against the DGRs is not a corporation and has no budget. The Bluewater Coalition takes minutes of its meetings and prepares agendas for its meetings. For the purpose of this hearing, this submission on behalf of the Bluewater Coalition will focus on OPG's DGR project proposed for Kincardine, Ontario.

Section 2.2 of the Environmental Impact Statement guidelines for this project state: "Public participation is a central objective of the overall review process. Meaningful public participation requires the proponent to address concerns of the general public regarding the anticipated or potential environmental effects of the project. In preparing the EIS, the proponent is required to engage residents and organizations in all affected communities, other interested organizations, and relevant government agencies."¹

Limited public engagement and limited genuine, extensive community consultation as well as a pattern of inadequate transparency of OPG, NWMO and municipal actions related to the proposed Kincardine DGR are common concerns of the Bluewater Coalition members. The above focus of this submission does not preclude other due process, environmental, geological and socio-economic concerns.

This submission will ask the Joint Review Panel to consider the following questions:

1. How has the presence and influence of the nuclear industry in the region affected the ability of regional community leaders and residents to make informed and unbiased decisions in the best interests of the community?
2. Did OPG/NWMO's DGR Community Consultation Advisory Group (CCAG) follow practices of "meaningful public participation" required by the EIS guidelines?
3. Were the practices of the OPG/NWMO's DGR Community Consultation Advisory Group (CCAG) inadequate "community consultation" and as a result, is it reasonable for residents of Bruce County to "lack confidence in the degree of community involvement in the (L&ILW DGR) planning process"?

¹ <http://www.ccaa-acee.gc.ca/050/documents/31039/31039E.pdf>, p. 9 of 115

1. NUCLEAR DEPENDENCY IN THE BRUCE-GREY-HURON COUNTY REGION

1.1 Theoretical Background: Blowers, Kojo, Durant

The concept of 'nuclear oasis' was introduced by Andrew Blowers, a UK social scientist, in the early 1990s. Blowers' 'nuclear oasis' theory posits that places that already host existing nuclear facilities are the most likely places where radioactive waste repositories may be welcome. Although Blowers states that greater readiness to accept repositories may be in some small part due to familiarity with the industry and growth within the nuclear culture, he stresses such aspects as dependency, unequal power relations and the process of peripheralization. Blowers' theory emphasizes industry's economic dominance within a nuclear community or region and a dependent workforce. He cites this dependency as a reason for greater acceptance of nuclear waste repositories in nuclear communities.²

Matt Kojo of the University of Tampere, Finland and colleagues have studied local opinion on the siting of a nuclear waste repository in the municipality of Eurajoki, Finland. Eurajoki is the site of the Olkiluoto Nuclear power complex and the Onkalo Deep Geological Repository for Spent Nuclear Fuel, currently under construction. To quote Professor Kojo:

"In many countries, the communities that have been more willing to consider acting as hosts for nuclear waste management facility projects are in fact those that already have a nuclear installation or installations within their territory," the team explains. "These communities are usually described as 'nuclear communities' or 'nuclear oases'. Another term associated with such communities is 'industry awareness'. The team says that the term "nuclear oasis", which gives negative connotations to the host municipality, emphasizes unequal power relations and the dependency of a host municipality, whereas the "industry awareness" interpretation attempts to offer a much more positive approach. In this latter phrase, the municipality is not seen simply as a dump for nuclear waste but has what is often referred to as "ownership" of this modern problem. Indeed, in the case of the Eurajoki, where the repository is still under construction but the plans for which have been expanded twice, acceptance is coupled with economic benefits despite the perceived risks.

What the team has found, however, is that communal understanding of the development of such a site is constantly evolving although this often hinges on the fact that the nuclear industry is often well-embedded in the community to begin with. The researchers suggest that it is inevitable that such a community will be more willing to engage with discussions than one unfamiliar with or unconnected with the nuclear industry, given that many members of the community will be nuclear workers or members of the workers' family or social circle. In the case of the present study, the Olkiluoto area of Eurajoki

² Blowers, A, D Lowry and B Solomon, 1991, *The International Politics of Nuclear Waste*. London: Macmillan; Blowers, Andrew, 1999, *Nuclear Waste and Landscapes of Risk*, *Landscape Research*, 24 (3), 241-264

already has two nuclear power plant units, with a third under construction and a fourth in the planning phase.”³

In August 2007, Darrin Durant, a York University professor in the Faculty of Science and Engineering, published an article called “Burying Globally, Acting Locally: control and co-option in nuclear waste management” in the journal *Science and Public Policy*. Professor Durant’s thesis is that nuclear boundary organizations like the Nuclear Waste Management Organization (NWMO) seek to control the public, maximize their organizational discretion (the autonomy of their organization to make decisions) and lessen common and contemporary concerns about government accountability and legitimacy. By doing this, the nuclear industry is changing from an ‘industry in retreat’ to one of reinvention. His study reviews the national programs for nuclear waste disposal in the US, UK, Sweden and Canada. Within his article, Professor Durant refers to the work of Andrew Blowers (cited above) who portrayed the nuclear industry “in retreat”. He also noted that because local opposition has “increasingly and successfully undermined” the power of the nuclear cause, nuclear oases “hold the key to the future of the nuclear industry”.⁴

1.2 Whether one chooses to view Bruce County as a ‘nuclear oasis’ or a region of ‘industry awareness’, there is no doubt that the nuclear industry contributes significantly to the local economy through direct employment, both company and contracted employees, tertiary industries, financial contributions to the community and through the 2004 Hosting Agreement between OPG and the Municipality of Kincardine. The County of Bruce and the municipality of Kincardine are members of the Canadian Association of Nuclear Host Communities, an organization which provides a forum for nuclear-dependent or affected communities to discuss issues and concerns of mutual interest. On December 20, 2011, Huron-Kinloss Mayor, Mitch Twolan, demonstrated this faith in interdependency between Canadian nuclear host communities when he suggested that the Canadian Association of Nuclear Host Communities be approached to lobby on behalf of the DGR Project.⁵

1.2.1 In 2012, Bruce Power donated over \$1.4 million to dozens of local community organizations and non-profit groups to assist with projects that benefit health and wellness, community, youth development, events, Aboriginal programs and military

³ Matt Kojo, “Where to put nuclear waste: Yes to my back yard”, June 19, 2012; http://www.eurekalert.org/pub_releases/2012-06/ip-wtp061912.php; Mika Kari, Matti Kojo, Tapio Litmanen - “Community Divided: Adaptation and Aversion towards the Spent Nuclear Fuel Repository in Eurajoki and its Neighbouring Municipalities”, University of Jyväskylä/University of Tampere, 2010

⁴ Durant, Darrin, “Burying globally, acting locally: control and co-option in nuclear waste management”, *Science and Public Policy*, 34 (7), August 2007, pages 515-528

⁵ DGR CCAG Meeting, Dec. 20, 2011, p. 57 of 78 - “Attachment to OPG Letter, Allan Webster to Dr. Stella Swanson, “Deep Geologic Repository Project for Low and Intermediate Level Waste - Submission of Responses to the Second Sub-set of Package #9 Information Requests”, CD# 00216-CORR-00531-00180, p. 57 of 78

veterans and first responders.⁶

1.2.2 Ontario Power Generation's Corporate Citizenship Program Summary Report, 2005-2010, indicates that OPG's Western Waste Management Facility (WWMF) provided donations to 460 not-for-profit partnerships including student awards. In 2010 alone, the WWMF contributed to 83 local initiatives in these areas: education, environment, and community (health and safety, youth amateur sport, arts and culture, and humanitarian causes.)⁷

1.2.3 The NWMO community partnership program report indicates the following:

"From the outset, the DGR project has been developed in partnership with Kincardine and surrounding Bruce County municipalities. The project has enjoyed strong community support over the years. To maintain and strengthen community partnerships a DGR Community Partnership Program has been developed.

The DGR Community Partnership Program will support community initiatives in Bruce County municipalities and Aboriginal communities that focus on the following areas: Environment, Education and Community.

DGR CPP 2012 Results

In 2012 over 99 percent of the program's \$100,000 budget was dispersed. Approximately one-third of the funds were directed at environmental initiatives including: Stream rehabilitation, tree planting, dune restoration and trail development programs. The balance was provided to community initiatives such as the Chesley Medical Clinic, Teeswater Streetscape Improvement Program, Historic Saugeen Métis Rendezvous community event, Walkerton Community Centre Renovation Project, Bluewater Park Splash Pad Project and many other worthy Bruce community projects."⁸

1.2.4 The Bruce Nuclear Power Development(BNPD) is a large employer in Bruce County and the region, employing 3500 workers.⁹ It is not uncommon for BNPD employees or retirees to sit on local municipal governments. Glenn Sutton, former Mayor of Kincardine and signatory to the 2004 OPG/Municipality of Kincardine Hosting Agreement is an Ontario Hydro retiree. Mike Smith, current Mayor of Saugeen Shores and former Warden of Bruce County is also a retiree from the BNPD complex.

⁶ http://www.brucepower.com/wp-content/uploads/2013/01/Sponsorship_Q4_2012.pdf

⁷ <http://www.opg.com/community/CPP%20REPORT%20FINAL%202012.pdf>

⁸ http://www.nwmo.ca/community_partnership_program

⁹ https://docs.google.com/viewer?a=v&pid=gmail&attid=0.1&thid=1404c3659ceeb7a9&mt=application/pdf&url=https://mail.google.com/mail/u/0/?ui%3D2%26ik%3Db10af92557%26view%3Datt%26th%3D1404c3659ceeb7a9%26attid%3D0.1%26disp%3Dsafe%26zw&sig=AHIEtbTjSWC4j_Z5dMGxr7BnylLHxRDHbQ, Bruce County Housing Services, Affordable Housing Division, Bruce County Census Update , February 17, 2009, p.18

1.2.5 Bruce County and adjacent counties have benefitted economically from the presence of the BNPD, but regardless of the benefits, the fact remains that a significant portion of the population feels a sense of indebtedness, comfort and loyalty to the nuclear industry. With the lucrative salaries and benefits, living in close proximity to nuclear operations without a catastrophic accident, the generous nuclear industry support of well-publicized community projects (medical projects, public parks and recreation facilities, academic scholarships, beach parties, fairs and fests, golf tournaments), what unease is produced if someone starts to question the safety of one of the central industries in their community? How much easier is it to support even the riskiest of proposals - the burial of radioactive waste close to the Great Lakes?

1.3 THE HOSTING AGREEMENT

1.3.1 In October 2004 the Municipality of Kincardine and Ontario Power Generation signed a hosting agreement for the proposed L&ILW DGR. Under this agreement, Kincardine and the four adjacent municipalities of Arran-Elderslie, Brockton, Huron-Kinloss and Saugeen Shores will receive at least 34 million inflation-protected dollars from 2005 to 2034. However, quoting from the Agreement: "...if at any time OPG determines that the Adjacent Municipalities are not, in good faith, exercising best efforts to achieve any of these milestones, OPG may, in its sole discretion, acting reasonably, decline to make further annual payments or any further one-time lump sum payments set out in Schedule A for any or all of the aforementioned municipalities, as the case may be, which OPG has determined is failing to exercise best efforts, in which case the affected municipality will not have any right to receive or recover that payment." ¹⁰

1.3.2 The letters you have received and submissions you will receive from Bruce County municipalities in support of this project, including Saugeen Shores, have been influenced by the money received as a result of the hosting agreement signed by OPG and Kincardine in October 2004.

This is not speculation. The minutes of the June 11, 2012 Committee of the Whole meeting in the Town of Saugeen Shores illustrate the obligation this Town's officials feel as a result of the 2004 Hosting Agreement. At the aforementioned meeting Larry Allison, the Chief Administrative Officer of Saugeen Shores, presented a report to Saugeen Shores Council.¹¹ This report recommended that Council submit a letter of support to the Joint Review Panel for the Low and Intermediate Level DGR in Kincardine. During the meeting, Mr. Allison read the report word for word, until he reached the last section of the report: Financial Implications. For that section, he read only the first word - "Nil". Mr. Allison didn't read the whole paragraph which outlined those financial implications.

¹⁰ *DGR Hosting Agreement Between Ontario Power Generation And Municipality of Kincardine, October 2004*

¹¹ The Corporation of the Town of Saugeen Shores Staff Report, "OPG's Low and Intermediate Level Radioactive Waste Deep Geologic Repository (DGR) - Kincardine Ontario", Prepared by Larry Allison, June 11th, 2012

The following quote presents what Mr. Allison did not read to Council and the public at that meeting: "Nil – however the provisions of the Hosting Agreement indicate that Adjacent Municipalities are, as a condition of continued financial benefit, to make best efforts to assist in achieving key approval milestones in the delivery of the project."¹² With Mr. Allison's statement clearly echoing the terms of the 2004 Hosting Agreement, the Council voted unanimously to approve this letter of support.

1.3.3 Did the Adjacent Municipalities included in the 2004 Hosting Agreement sign the agreement? No - the only signatories were representatives of Ontario Power Generation and the Municipality of Kincardine.

1.3.4 Did the Adjacent Municipalities included in the 2004 Hosting Agreement formally approve of their towns' inclusion in the Hosting Agreement? This written submission explores what happened with regard to this question in Saugeen Shores and the Bruce County Council.

1.4 The Town of Saugeen Shores

1.4.1 SOS reviewed the COW and Council minutes, for both Sept. 27th and Oct. 12th, 2004 and there is no record in either of the minutes of any motion voted on by Council that would formally support the DRR (Deep Rock Repository as it was referred to in the minutes) (L&ILW DGR). What we did see in the COW minutes was this: Terry Squire on behalf of OPG sent a letter seeking support of the low and intermediate level DGR. The minutes say that Committee members discussed the concept at length and recommended that the Town of Saugeen Shores support the deep rock repository for low and intermediate level waste storage facility as proposed by OPG.¹³ A copy of the aforementioned letter from Mr. Squire was not included in the minutes of the Sept. 27th meetings.

However, according to Town records, this action of support by the Committee was not a formal resolution with three readings, nor was it a formal resolution to enter into the 2004 hosting agreement which obligates our Town to support OPG at OPG's discretion to continue receiving funds. Motions and votes resulting in resolutions are carried, defeated or deferred by Council and, after reviewing Council minutes from Sept. 27th and Oct. 11th, 2004, we found no evidence of any Regular Council motion or vote on the Town supporting DGR1 or becoming a beneficiary under the 2004 hosting agreement between Kincardine and OPG.

It is fair to ask what was the basis of the Committee's "lengthy discussion" on Sept. 27th, 2004. The minutes indicate that the discussion was in response to the Squire

¹² The Corporation of the Town of Saugeen Shores Staff Report, "OPG's Low and Intermediate Level Radioactive Waste Deep Geologic Repository (DGR) - Kincardine Ontario", Prepared by Larry Allison, June 11th, 2012

¹³ <https://saugceenshores.civicweb.net/Documents/DocumentList.aspx?ID=45266>

letter requesting support. How did they make their recommendation of support? The minutes of the April 13, 2004 Council meeting indicate that Mr. Squire and Glen Sutton (Mayor of Kincardine) made a presentation to the Committee of the Whole regarding the Independent Assessment Study Report on long-term management of Low and Intermediate Waste at the WWMF.¹⁴ That meeting was six months before Council made its recommendation of support. Were there other events where Council studied this issue? Did they include presentations by third parties who did not have a pecuniary interest in the project?

1.4.2 Save Our Saugeen Shores reviewed all of the published Saugeen Shores Council minutes from 2003/2004 and found no documents or resolutions showing Saugeen Shores Council's vote to approve the Town's entry into the 2004 hosting agreement. For the last year SOS has asked the Town of Saugeen Shores to present documentation of such a vote with no response. In fact, Mike Smith, current Mayor of Saugeen Shores, responded to my renewed request for DGR-related information at the May 27, 2013 Committee of the Whole meeting: "You have everything we have."

1.4.3 An OPG document from August 2006 states that there was a letter of support from all the adjacent municipalities.¹⁵ However, an October 2006 OPG report discussing adjacent municipalities' Council support for the project only lists Arran-Elderslie, South Bruce, Brockton, and Huron Kinloss, and not Saugeen Shores.¹⁶ It appears that the Saugeen Shores' Council entered into this powerful hosting agreement without a full and transparent public discussion and without a formal Council vote.

1.4.4 In July 2013, Saugeen Shores Mayor, Mike Smith told Saugeen Shores Council that he will intervene in these public hearings. His statement as Mayor will imply or even directly state that the residents of Saugeen Shores support this project. This statement will be made despite the fact that the Saugeen Shores Council did not pass a resolution in Regular Council to approve The Town's entry into the Hosting Agreement. Furthermore, there is no evidence that Mayor Smith presented this issue as part of his platform during his election campaigns in either 2006 or 2010 - his election of Mayor does not follow that the electorate supports him and the Council on this issue.

1.5. Bruce County Council

¹⁴ <https://saugeenshores.civicweb.net/Documents/DocumentList.aspx?ID=832>

¹⁵ Oral Presentation Submission from Ontario Power Generation Inc. In the Matter of Ontario Power Generation Inc. - Scoping Document (Environmental Assessment Guidelines) regarding Ontario Power Generation Inc.'s proposal to construct and operate a Deep Geological Repository within the Bruce Nuclear Site in Kincardine, Ontario, p. 10, August 2006

¹⁶ Record of Proceedings, Including Reasons for Decision In the Matter of Applicant Ontario Power Generation Inc. Subject Environmental Assessment Track Report Regarding Ontario Power Generation Inc.'s Proposal to Construct and Operate a Deep Geologic Repository Within the Bruce Nuclear Site in Kincardine, Ontario Hearing Date October 23, 2006, p. 13

1.5.1 In November, 2004 Bruce County regional media reported a division within the Bruce County Council over the proposed L&ILW DGR project planned for Kincardine. A November 10, 2004 *Kincardine News* story reported that three of the eight Bruce County mayors were upset that Bruce County wasn't included in the \$35 million, 30-year hosting agreement between OPG and the Municipality of Kincardine. According to this story, some of the mayors only recently learned details of a proposal that had been under discussion for several months. Quoting the *News*:

"Northern Bruce Peninsula mayor Milt McIver was angry that the county had no input on a facility that will take contaminated materials and decommissioning debris from reactors across the province. 'Is this the best way for nuclear waste (to be stored)? I don't know,' McIver said. He wants time to study information from a presentation by OPG's Terry Squire and Ken Nash."¹⁷

On Nov. 5, 2004, the *Owen Sound Sun Times* reported:

"Bruce County Warden Ralph Kreutzwiser isn't happy about the county being left out of a \$35-million deal for Ontario Power Generation's storage of low and medium level nuclear waste from 20 Ontario reactors at the Bruce Power site. 'I agree we have to look at putting the material in a safe place, but the second part of the equation is compensation,' said Kreutzwiser. He wants OPG to re-open the compensation deal before the \$800-million project goes before council for approval. 'I feel we should get around what Saugeen Shores is getting.'....Northern Bruce Peninsula Mayor Milt McIver suggested that no money be paid to any municipality....'You can look at other areas and look at other agreements, but at some point in time somebody has to change agreements. I would like that to happen in this particular case.' He suggested OPG act like any new businesses coming to the area 'and just pay their taxes and that portion of the taxes goes to the county.' McIver, who heard the details of the OPG proposal for the first time on Thursday, was irked that Kincardine Mayor Glenn Sutton was trying to get council to support the project after a heated debate at the meeting. 'It looks to me like it's a rush job,' McIver said."¹⁸

1.5.2 By November 13, 2004, the *Owen Sound Sun Times* was reporting that most members of Bruce County Council had decided to support the L&ILW DGR plan. According to the *Times*:

"The change of heart came after a closed door meeting with Terry Squire, director of communications for Ontario Power Generation's nuclear waste management division on Thursday. ... A new agreement with OPG was reached Thursday and it guarantees the county receives \$250,000 a year through a combination of taxation or direct funding from OPG."¹⁹

¹⁷ Environmental Impact Statement (Vol. 2_2), p. 97 of 899, *Kincardine News*, Nov. 10, 2004

¹⁸ Environmental Impact Statement (Vol. 2_2), p. 90 of 899, "Bruce wants piece of action: County shut out of \$35-million nuclear waste disposal deal", *Owen Sound Sun Times*, Nov. 5, 2004

¹⁹ Environmental Impact Statement (Vol. 2_2), p. 102 of 899, "Bruce backs OPG plan: County guaranteed \$250,000 a year", *Owen Sound Sun Times*, Nov. 13, 2004

1.5.3 Recently revealed records of a November 12, 2004 Bruce County Council meeting show:

1.5.3.1 The Bruce County Committee of the Whole met with Mike Smith, Deputy-Mayor of Saugeen Shores attending in the place of Mark Kraemer. Mr. Terry Squire, Director of Corporate Services for OPG was in attendance for the In-Camera Session.

1.5.3.2 No pecuniary interests were declared.

1.5.3.3 The Committee moved in-camera to discuss a property issue with Mr. Squire in attendance.

1.5.3.4 After the in-camera session, the Committee carried the following motion: "That we recommend to County Council that we endorse the Deep Geological Repository option for the long-term management of low and intermediate level nuclear waste at the Western Waste Management facility, as outlined in the Independent Assessment Project."

1.5.3.5 A second related motion followed and was carried: "That we enter into 2 agreements related to the Deep Geological Repository option for the long-term waste management of low and intermediate level nuclear waste with the following parties:
i) OPG, Municipality of Kincardine and the Province (MPAC) - to determine method of taxation
ii) OPG - level of guaranteed taxation"²⁰ (Appendix 1)

1.5.3.6 When asked for copies of the above-referenced agreements, Bettyanne Cobean, Clerk of Bruce County, stated in e-mail correspondence to Cheryl Grace: "I did comment in our telephone conversation that the agreements do not exist. I believe the intent of the motion was to go on record that the County requested agreements to insure that the County was involved in the method of taxation and the guaranteed level of taxation. Nothing ever came to fruition to my knowledge. Yes, closed to Public minutes exist for the November 12, 2004 meeting."²¹ (Appendix 2)

1.6 The Bruce County Council and the adjacent municipalities in the 2004 OPG/ Kincardine Hosting Agreement have many financial reasons for offering a letter of support to the Joint Review Panel. OPG and Bruce Power are major employers in our region and they and the NWMO donate hundreds of thousands of dollars to community and civic projects in our area, so the hosting agreement is just one type of economic incentive for continued support of OPG projects. It is a particularly strong incentive

²⁰ see attached minutes for Nov. 12, 2004 documents. These minutes were provided by Bettyanne Cobean, Bruce County Clerk-Treasurer - they are not available on the County website.

²¹ see attached e-mails from Bettyanne Cobean to Cheryl Grace, June 10 - 13, 2013

because the agreement was written to allow OPG to withdraw promised funds to 'any or all' municipalities'; therefore, the obligation is not just to the nuclear industry, but to the other municipalities and the entire County receiving funding from OPG through the 2004 Hosting Agreement and the later agreement with the County.

2.0 DGR Community Consultation Advisory Group (CCAG) Meetings - Bruce County Council

2.1 The major source referred to in this section is OPG's (Ontario Power Generation) response to an Information Request by Dr. Stella Swanson, Chair of the Joint Review Panel on the "Deep Geologic Repository Project for Low and Intermediate Level Waste"²², a document which reveals a significant deficiency in OPG's understanding of community consultation.

2.2 Part of OPG's response describes special meetings that occurred between OPG, the NWMO and Bruce County Mayors as early as 2005. A group called the DGR Community Consultation Advisory Group (CCAG) including Bruce County mayors, was formed with the purpose of keeping the mayors "updated and informed regarding developments associated with OPG's DGR Project."²³ In this April 2013 submission, OPG indicates that there were 16 meetings of the DGR CCAG between September 13, 2005 (its inaugural meeting) and the end of 2012. Meeting participants included OPG public affairs staff, OPG executives, NWMO staff and CNSC staff. According to OPG "there are no notes of meetings, official or otherwise, for meetings held between 2005 and 2008. For 8 of 9 meetings held between 2009 and the end of 2012, unofficial meeting notes were prepared by an attendee of the meetings. These notes are considered unofficial in that they were not reviewed or approved by other attendees." The 2009-2012 notes are provided in OPG's response to the JRP, but it is specifically noted that no notes were taken for the CCAG meeting held on April 20, 2011.²⁴

2.3 OPG submitted information to you as proof of adequate "community consultation" and to provide "clarity and confidence in the degree of community involvement in the

²² Attachment to OPG Letter, Allan Webster to Dr. Stella Swanson, "Deep Geologic Repository Project for Low and Intermediate Level Waste - Submission of Responses to the Second Sub-set of Package #9 Information Requests", CD# 00216-CORR-00531-00180; <http://www.ceaa-acee.gc.ca/050/documents/p17520/88483E.pdf>, p. 48-67 of 104

²³ Attachment to OPG Letter, Allan Webster to Dr. Stella Swanson, "Deep Geologic Repository Project for Low and Intermediate Level Waste - Submission of Responses to the Second Sub-set of Package #9 Information Requests", CD# 00216-CORR-00531-00180; <http://www.ceaa-acee.gc.ca/050/documents/p17520/88483E.pdf>, p. 48 of 104

²⁴ Attachment to OPG Letter, Allan Webster to Dr. Stella Swanson, "Deep Geologic Repository Project for Low and Intermediate Level Waste - Submission of Responses to the Second Sub-set of Package #9 Information Requests", CD# 00216-CORR-00531-00180; <http://www.ceaa-acee.gc.ca/050/documents/p17520/88483E.pdf>, p. 48 of 104

planning process”.²⁵ OPG/NWMO's EIS Summary from March 2011 stated that the group “met at least twice a year from 2008 onwards.”²⁶ In this summary, OPG does not state that the DGR CCAG had been meeting regularly since 2005 but OPG has not offered written records for that 3.5 year period.

2.4 While the notes for the Sept. 30, 2009 DGR CCAG meeting included in the April 2013 submission above were included in OPG's March 2011 Environmental Impact Statement,²⁷ and provided a written record and not official minutes for only one of sixteen meetings from 2005-2012, this falls far short of this goal of “providing clarity and confidence in the degree of community involvement in the planning process.”

2.5 As referenced above, the DGR CCAG met without keeping notes from 2005-2008, and kept no official minutes at any time; however, the 2009-2012 notes indicate that a quorum of the Bruce County Council attended the eight meetings where written records are available. Without written records of half of the reported meetings, and no official minutes, how is the Joint Review Panel and the public to have “clarity” on the degree of community involvement in the planning process?

2.6 “Clarity” has also been impeded by the fact that there is no evidence that residents of Bruce County were informed of the activities of the DGR CCAG.

I searched for mention of the existence of the DGR CCAG on the Town of Saugeen Shores' Council records available on the Town website. It doesn't appear. Then I looked at the minutes of the Saugeen Shores Committee of the Whole meeting for March 8, 2010, the closest meeting succeeding the Ottawa DGR CCAG meeting, thinking that the Mayor may have reported on the meeting then. There was no mention of the DGR CCAG's meeting. On May 22, 2013, SOS received 8 documents which refer to the DGR CCAG only after an FOI (Freedom of Information) request to Saugeen Shores. These were all e-mails that provided agendas or discussed meeting details.²⁸

2.7 Since this was a County-wide group, one might expect frequent reference to the DGR CCAG in public Bruce County records. However, a review of Bruce County Council minutes shows no mention of the CCAG and a specific review of the minutes of

²⁵ Attachment to OPG Letter, Allan Webster to Dr. Stella Swanson, “Deep Geologic Repository Project for Low and Intermediate Level Waste - Submission of Responses to the Second Sub-set of Package #9 Information Requests”, CD# 00216-CORR-00531-00180; <http://www.ceaa-acee.gc.ca/050/documents/p17520/88483E.pdf>, p. 47 of 104

²⁶ <http://www.opg.com/power/nuclear/waste/pdf/NWMO%20216%20-%20EIS%20Summary.pdf>, p. 56

²⁷ EIS, Vol 2_2 pg 851 -854

²⁸ The FOI documents which mention the DGR CCAG span the dates of Jan. 3, 2012 to Sept. 14, 2012.

the County Council meetings of March 4, 2010²⁹ and April 1, 2010³⁰ shows no discussion of what happened at the February 25, 2010 CCAG Ottawa meeting.

2.8 To summarize the information provided, the DGR CCAG met without keeping notes from 2005-2008, and kept no official minutes at any time; however, the 2009-2012 notes indicate that a quorum of the Bruce County Council attended the eight meetings.

2.9 The Sunshine Law Handbook, 2nd. Edition³¹ defines “a committee, for the purposes of the open meeting provisions, to mean any advisory or other committee, subcommittee or similar entity of which at least 50% of the members are also members of one or more councils or local boards.”³² According to the above-referenced records provided by OPG, that didn't happen in all of the meetings, but it did on June 3, 2010, at a meeting held in Walkerton, where there were 8 mayors present, with 8 other attendees: 2 municipal CAOs, 5 reps from NWMO and 1 exec from OPG.³³

2.10 The law governing closed municipal meetings as set out in the Ontario Municipal Act allows closed meetings to be held under specifically outlined exceptions. However, even if the DGR CCAG meetings met the standard of a closed meeting exception under the law, the Ontario Municipal Act still requires the municipal body to a) notify the public of the closed meeting and the reason it is being held and b) record without note comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not.³⁴

2.11 The above DGR CCAG records make clear that OPG defines “community” very narrowly, in this case a select group of County mayors and public officials. Furthermore, with the failure of the County officials to publicize the DGR CCAG’s activities through complete written records, including official minutes, as well as proper and legal public notice, it is understandable why members of the public lack confidence in OPG’s “community” consultation and engagement process.

2.12 One of the most baffling aspects of OPG’s submission on the DGR CCAG is

²⁹ <http://www.brucecounty.on.ca/assets/documentmanager/950b0030b809df10c395b8bfda8bd28b.pdf>

³⁰ <http://www.brucecounty.on.ca/assets/documentmanager/51df3cb7ad01c960c643f41985d1bfc9.pdf>

³¹ <http://www.ombudsman.on.ca/Files/sitemedia/Documents/Resources/sunshinelaw-en.pdf>

³² <http://www.ombudsman.on.ca/Files/sitemedia/Documents/Resources/sunshinelaw-en.pdf>, p. 13

³³ Attachment to OPG Letter, Allan Webster to Dr. Stella Swanson, “Deep Geologic Repository Project for Low and Intermediate Level Waste - Submission of Responses to the Second Sub-set of Package #9 Information Requests”, CD# 00216-CORR-00531-00180; <http://www.ceaa-acce.gc.ca/050/documents/p17520/88483E.pdf>, p. 57 of 104

³⁴ <http://www.ombudsman.on.ca/Files/sitemedia/Documents/Resources/sunshinelaw-en.pdf>, p. 18-21

OPG/NWMO's statement that they did not keep any written records from 2005 until the meeting on March 24, 2009, or for the meeting held April 20, 2011. In addition, OPG/NWMO admits that they kept no official minutes of these meetings at any time.

2.12.1 At the "Deep Geologic Repository Joint Review Panel Hearing" held in Ottawa, March 20, 2013, you questioned Marie Wilson, the author of some of the DGR CCAG written records (for four of the eight recorded meetings, no author was identified) about the activities of the above group.

Member Archibald asked Ms. Wilson if OPG offered organizational and secretarial assistance to keep and record minutes of the DGR CCAG meetings. Ms. Wilson replied that that type of assistance was not provided to the DGR CCAG and there wasn't any mechanism for submitting that information to the public. Member Muecke followed up with a query about how members of the group who couldn't attend meetings would be informed of what had transpired in previous sessions. Ms. Wilson replied as follows:

"Councils were kept updated with respect to the developments--the key developments of the DGR project, but they would not have--they were not notified of all of the activities that were discussed at those meetings."

Frank King, NWMO, added:

"I think as Ms. Wilson says, there were no Minutes taken, so it would be an informal process. If one of the Mayor's (sic) was not there that day, I don't think there was a formal process by which they formally advised. But, the mayors all sit on a community council. They see each other regularly, so I assumed there was more of an informal mechanism for that to happen."³⁵

"Assume there was a more informal mechanism for that to happen?" Once again, OPG/NWMO is guilty of either incompetence or deception. With this shoddy standard as an example, what hope does the public have going forward that the circumstances surrounding this project will be transparent?

2.13 In October 2006, then Saugeen Shores Mayor, Mark Kraemer made an oral presentation at the Canadian Nuclear Safety Commission Public Hearings on the Kincardine DGR project. In that statement, Mr. Kraemer claimed that the majority of residents in Saugeen Shores supported the project, but mentioned only OPG's publicity events as a means of gauging public support. When pressed about process by Dr. Christopher Barnes, Commission member, Mr. Kraemer admitted that quarterly meetings between OPG and town officials were "generally done with the mayors, the CEOs and representatives of OPG." When asked about minutes of these meetings being available to Council, Mr. Kraemer evaded the question, replying, "I'll defer to my

³⁵ <http://www.ceaa.gc.ca/050/documents/p17520/87457E.pdf>, March 20, 2013

colleagues to the left.”³⁶ Thanks to OPG’s April 15, 2013 submission on the DGR CCAG meetings we now know to what Mr. Kraemer’s evasive reply was referring.

2.14 OPG/NWMO’s failure to keep minutes and Bruce County officials’ failure to insist that minutes be taken is either a spectacularly incompetent oversight or it was an intentional action designed to keep the activities of this group hidden from public scrutiny and oversight. Keeping minutes of professional and community group meetings is standard in our society. The Bluewater Coalition takes minutes at its meeting, every committee and staff meeting I attended as a high school teacher during my 30-year career had minutes taken, reviewed and approved. Even my (Canadian Federation of University Women) CFUW Issues Group takes, reviews and approves minutes. What can possibly justify OPG/NWMO’s failure to keep any official minutes of the DGR CCAG or written records at all for seven meetings from 2005-2009 and one meeting held on April 20, 2011?

2.15 Did OPG/NWMO not consider the DGR CCAG to be an important enough group within the DGR project plan to keep written records or official minutes? A variety of OPG documents indicates that OPG/NWMO considered this group to be very important.

2.15.1 OPG’s EIS, Vol 2-1, shows that from 2006 until 2010, the DGR CCAG was included in OPG’s Nuclear Waste Management Division’s Communication Plans. The 2009 Communication Plan described the DGR CCAG in the following way:

“DGR Community Consultation Advisory Group - consists of the eight mayors (one of whom is the Bruce County Warden) and CAOs for the eight municipalities that make up Bruce County as well as representatives from NWMO. OPG will also have representation as per the communication protocol. - Two (2) to three (3) meetings per year - Provide technical and social updates to all eight county mayors at the same time in order to create a sense of solidarity/continuity, while avoiding surprises and divisiveness among the group. This committee provides ongoing intelligence of the Bruce community as well as advice on the effectiveness of our public communication program. They need to be properly prepared and informed through extensive technical presentations and independent peer review, which will allow them to offer meaningful and informed support at the public review panel hearing.”³⁷

2.15.2 In 2006, the description of the DGR CCAG was listed under “Nuclear Waste Management Division 2006 Communication Plan, 8.0 DGR Communications, Notes: 2006 will be an important year for NWMD to build awareness and understanding of the DGR project, ahead of the EA Guidelines being finalized mid-year.” In the 2007 Communications Plan the DGR CCAG description was prefaced with this note: “2007

³⁶ Canadian Nuclear Safety Commission, Public Hearings, October 23, 2006, p. 167-176

³⁷ OPG’s Deep Geologic Repository for Low & Intermediate Level Waste Environmental Impact Statement, Volume 2: Appendices; 00216-REP-07701-00001 R000, March 2011 - <http://www.opg.com/power/nuclear/waste/pdf/NWMO%20216%20-%20EIS%20Summary.pdf> -, p. 612; 2006 - p. 568; 2007 - p. 585; 2008 makes no specific reference to the DGR CCAG, but there is a reference to a “DGR Consultation Committee”; 2010 - p. 625

will be an important year for NWMD to continue to build awareness and understanding of the DGR project, as the project is now in the regulatory review phase.”³⁸

2.15.3 Clearly, OPG regarded the DGR CCAG as being an important enough group to include it in its Communication Plans from 2006 to 2010; important enough to send DGR CCAG members e-mails outlining meeting agendas and scheduling details; important enough to include the presence of the most prominent Bruce County elected officials and CAOs, Ken Nash, President and CEO of the NWMO, Dr. Michael Binder, President and CEO of the Canadian Nuclear Safety Commission and numerous other senior executives of OPG and the NWMO.

2.15.4 Was the failure to take minutes and report to the public intentional? Either answer is not comforting when we consider that OPG is applying for a license for a project of this magnitude. If OPG failed to take minutes through incompetence, what does that say about their ability to manage the DGR project? If intentional, they should lose the public trust in OPG’s professed commitment to transparency.

3. Conclusion

3.1 This submission has clearly delineated the influence of the nuclear industry in a region which is either a ‘nuclear oasis’ or a region of ‘industry awareness’. Workforce and economic dependence and obligation, large and well-publicized industry contributions to the community, as well as the population’s comfort with nuclear operations have contributed to the regional governments’ and populations’ acceptance of the DGR project. It is not uncommon for local municipal mayors and councillors to have personal professional ties to the nuclear industry, through their own employment or a family member’s. Compounding these factors is the iron-clad 2004 Hosting Agreement, which binds participating municipalities to support the DGR project, or put in jeopardy millions of promised dollars, not just for one municipality but for all. The Bluewater Coalition submits that all of these factors have created an unreasonably biased climate which limits “meaningful public participation” as intended by the EIS guidelines.

3.2 The evidence provided in this submission reveals serious flaws in OPG’s public consultation practices regarding the proposed L&ILW DGR project. We submit that the practices surrounding OPG/NWMO’s DGR CCAG violated not only Ontario Municipal law, but the required Environmental Impact Statement guidelines of “meaningful public participation”. The DGR CCAG was an elite group of Bruce County Mayors, CAOS and industry senior executives which kept no official minutes, did not publicize or formally share meetings or activities to regional municipal councils or the general public.

³⁸ OPG’s Deep Geologic Repository for Low & Intermediate Level Waste Environmental Impact Statement, Volume 2: Appendices; 00216-REP-07701-00001 R000, March 2011 - <http://www.opg.com/power/nuclear/waste/pdf/NWMO%20216%20-%20EIS%20Summary.pdf> -2006 - p. 568; 2007 - p. 585

3.2.1 The evidence provided in this submission suggests that some of the municipal representatives in Bruce County have abdicated their oversight duties by participating in and condoning nuclear industry-organized meetings which failed to abide by the spirit of Ontario Municipal Law as well as the required Environmental Impact Statement guidelines of “meaningful public participation”. The Bluewater Coalition calls upon this Joint Review Panel to protect the standard set out by the above-mentioned EIS guidelines.

3.3 The Bluewater Coalition Against the DGRs submits that the procedural defects outlined in our submission as well as procedural defects outlined in the submissions of Save Our Saugeen Shores, Patrick Gibbons, Roderick McLeod, Ken Robertson, Dr. Stephanie Rutherford and other intervenors in the Bluewater region demonstrate the inability of the proponent to complete this project with the transparency, integrity and accountability required by your standards and provincial municipal law. We ask the Joint Review Panel to deny the proponent’s license application for the L&ILW Deep Geological Repository in Kincardine.

Respectfully submitted,

Cheryl Grace